

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 TOMAMEX TIJUANA, INC., a) Civil No. 09CV2842 AJB(RBB)
California Corporation,)
12 Plaintiff,) ORDER GRANTING IN PART CINTAS
13 v.) CORPORATION AND TOMAMEX
14 CINTAS CORPORATION, a) TIJUANA, INC.'S THIRD JOINT
Washington corporation, and) MOTION TO AMEND CASE
DOES 1 through 20, inclusive,) MANAGEMENT CONFERENCE ORDER
15) AND CONTINUE DISCOVERY,
16) PRETRIAL AND TRIAL DATES [ECF
Defendants.) NO. 61]
17)
18 AND RELATED CROSS-ACTION.)
19)

20 After consideration of Defendant Cintas Corporation and
21 Plaintiff Tomamex Tijuana, Inc.'s [Third] Joint Motion to Continue
22 Discovery, Pretrial and Trial Dates (ECF No. 61) and all supporting
23 papers filed therewith and good cause appearing therefore:

IT IS HEREBY ORDERED that Defendant Cintas Corporation and Plaintiff Tomamex Tijuana, Inc.'s Joint Motion to Continue Discovery, Pretrial and Trial Dates is granted in part. For good cause shown, the following dates shall govern the case schedule in this action:

1 1. All fact discovery must be completed by all parties on or
2 before October 7, 2011. All expert discovery must be completed by
3 all parties on or before October 21, 2011. "Completed" means that
4 all discovery under Rules 30-36 of the Federal Rules of Civil
5 Procedure, and discovery subpoenas under Federal Rule of Civil
6 Procedure 45, must be initiated a sufficient period of time in
7 advance of the cut-off date, so that it may be completed by the
8 cut-off date, taking into account the times for service, notice,
9 and response, as set forth in the Federal Rules of Civil Procedure.
10 Counsel must promptly and in good faith meet and confer with regard
11 to all discovery disputes in compliance with Local Rule 26.1(a).
12 All discovery motions must be filed within 30 days of the service
13 of an objection, answer, or response which becomes the subject of
14 dispute or the passage of a discovery due date without response or
15 production, and only after counsel have met and conferred and have
16 reached impasse with regard to the particular issue. **A failure to**
17 **comply in this regard will result in a waiver of a parties**
18 **discovery issue. Absent an order of the court, no stipulation**
19 **continuing or altering this requirement will be recognized by the**
20 **court.**

21 2. All other dispositive motions, including those addressing
22 Daubert issues, must be filed on or before December 2, 2011.
23 Please be advised that counsel for the moving party must obtain a
24 motion hearing date from the law clerk of the judge who will hear
25 the motion. Motions in Limine are to be filed as directed in the
26 Local Rules, or as otherwise set by Judge Battaglia. **Be further**
27 **advised that the period of time between the date you request a**
28 **motion date and the hearing date may vary from one district judge**

1 to another. Please plan accordingly. For example, you should
2 contact the judge's law clerk in advance of the motion cutoff to
3 calendar the motion. Failure to timely request a motion date may
4 result in the motion not being heard.

5 Questions regarding this case should be directed to the
6 judge's law clerk. The Court draws the parties' attention to Local
7 Rule 7.1(e)(4) which requires that the parties allot additional
8 time for service of motion papers by mail. Papers not complying
9 with this rule shall not be accepted for filing.

10 Briefs or memoranda in support of or in opposition to any
11 pending motion shall not exceed twenty-five (25) pages in length
12 without leave of the judge who will hear the motion. No reply
13 memorandum shall exceed ten (10) pages without leave of the judge
14 who will hear the motion.

15 3. The settlement conference set for August 11, 2011, at 2:00
16 p.m. shall be continued to December 19, 2011, at 1:30 p.m. A
17 mandatory settlement conference date will be set at one of the
18 scheduled settlement conferences.

19 All parties, claims adjusters for insured Defendants and non-
20 lawyer representatives with complete authority to enter into a
21 binding settlement, as well as the principal attorneys responsible
22 for the litigation, must be present and legally and factually
23 prepared to discuss and resolve the case at the mandatory
24 settlement conference and at all settlement conferences. Retained
25 outside corporate counsel shall not appear on behalf of a
26 corporation as the party representative who has the authority to
27 negotiate and enter into a settlement. Failure to attend or obtain
28 proper excuse will be considered grounds for sanctions.

1 If Plaintiff is incarcerated in a penal institution or other
2 facility, the Plaintiff's presence is not required at conferences
3 before Judge Brooks, and the Plaintiff may participate by
4 telephone. In that case, defense counsel is to coordinate the
5 Plaintiff's appearance by telephone.

6 **Confidential written settlement statements for the mandatory**
7 **settlement conference shall be lodged directly in the chambers of**
8 **Judge Brooks no later than five court days before the mandatory**
9 **settlement conference.** The statements need not be filed with the
10 Clerk of the Court or served on opposing counsel. The statements
11 will not become part of the court file and will be returned at the
12 end of the conference upon request. Written statements may be
13 lodged with Judge Brooks either by mail or in person.

14 Any statement submitted should avoid arguing the case.
15 Instead, the statement should include a neutral factual statement
16 of the case, identify controlling legal issues, and concisely set
17 out issues of liability and damages, including any settlement
18 demands and offers to date and address special and general damages
19 where applicable.

20 If appropriate, the Court will consider the use of other
21 alternative dispute resolution techniques.

22 4. Counsel shall make their Pretrial Disclosures required by
23 Federal Rule of Civil Procedure 26(a)(3) on or before February 29,
24 2012.

25 Despite the requirements of Local Rule 16.1(f), neither party
26 is required to file Memoranda of Contentions of Fact and Law at any
27 time. The parties shall instead focus their efforts on drafting
28 and submitting a proposed pretrial order by the time and date

1 specified by Local Rule 16.1(f)(7)(b). This order replaces the
2 requirements under Local Rule 16.1(f)(6)(c).

3 5. The parties must meet and confer on or before March 7,
4 2012, and prepare a proposed pretrial order containing the
5 following:

6 A. A joint neutral statement to be read to the jury, not
7 in excess of one page, of the nature of the case and the claims and
8 defenses.

9 B. A list of the causes of action to be tried,
10 referenced to the Complaint [and Counterclaim if applicable]. For
11 each cause of action, the order shall succinctly list the elements
12 of the claim, damages and any defenses. A cause of action in the
13 Complaint [and/or Counterclaim] which is not listed shall be
14 dismissed with prejudice.

15 C(1). A list, in alphabetical order, of each witness
16 counsel actually expect to call at trial with a brief statement,
17 not exceeding four sentences, of the substance of the witnesses'
18 testimony.

19 C(2). A list, in alphabetical order, of each expert
20 witness counsel actually expect to call at trial with a brief
21 statement, not exceeding four sentences, of the substance of the
22 expert witnesses' testimony.

23 C(3). A list, in alphabetical order, of additional
24 witnesses, including experts, counsel do not expect to call at this
25 time but reserve the right to call at trial along with a brief
26 statement, not exceeding four sentences, of the substance of the
27 witnesses' testimony.

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1 D(1). A list of all exhibits that counsel actually
2 expect to offer at trial with a one-sentence description of the
3 exhibit.

4 D(2). A list of all other exhibits that counsel do not
5 expect to offer at this time but reserve the right to offer if
6 necessary at trial with a one-sentence description of the exhibit.

7 E. A statement of all facts to which the parties
8 stipulate. This statement must be on a separate page and will be
9 read to and provided to the jury.

10 F. A list of all deposition transcripts by page and
11 line, or videotape depositions by section, that will be offered at
12 trial in lieu of live testimony.

13 The Court encourages the parties to consult with the assigned
14 magistrate judge to work out any problems in preparation of the
15 proposed pretrial order. Judge Battaglia will entertain any
16 questions concerning the conduct of the trial at the pretrial
17 conference."

18 6. The proposed final pretrial conference order, including
19 objections to any party's Federal Rule of Civil Procedure 26(a)(3)
20 pretrial disclosures, shall be prepared, served, and lodged with
21 the Clerk of the Court on or before March 14, 2012. Counsel shall
22 also bring a court copy of the pretrial order to the pretrial
23 conference.

24 7. The final pretrial conference shall be held before the
25 Honorable Anthony J. Battaglia, United States District Judge, on
26 March 23, 2012, at 1:30 p.m. A trial shall begin at or before the
27 pretrial conference.

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1 8. The dates and times set forth herein will not be modified
2 except for good cause shown.

3 9. Plaintiff's(s') counsel shall serve a copy of this order
4 on all parties that enter this case hereafter.

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6 Dated: June 24, 2011


RUBEN B. BROOKS
United States Magistrate Judge

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8 cc: All Parties of Record
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